Supreme Court, U.S.
FILED
APR 24 1997
OFFICE OF THE CLERK

(2)

No. 96-1521

In The Supreme Court Of The United States

OCTOBER TERM 1996

LINDA WILLIAMS,

Petitioner,

v.

AVNET, INC., CHANNEL MASTER COMMUNICATIONS, INC., and CHANNEL MASTER SATELLITE SYSTEMS, INC.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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RESPONDENTS' BRIEF IN OPPOSITION

Respondents respectfully request that the Court deny the Petition for Writ of Certiorari seeking review of an opinion of the United States Court of Appeals for the Fourth Circuit. The opinion of the Court of Appeals is reported at 101 F.3d 346 (4th Circ. 1996) and is reproduced at page A-25 of the Petition.

The facts of the case, as recited by the Fourth Circuit,

are that the Plaintiff was injured in an automobile accident unrelated to her work; was unable to work for several months; was released by her physician to return to work with restrictions that prohibited lifting more than 25 pounds and pushing or pulling heavy objects; that the physician rated her impairment as 5% of the back; and that there were several jobs at the defendants' plant that the plaintiff could have performed with her restrictions. *Id.*, 101 F.3d at 348; Petition at page A-27.

Based on these facts, the Fourth Circuit held, in a *per curiam* opinion, that the plaintiff "failed to establish that she had a disability sufficient to trigger" the Americans with Disabilities Act, 42 U.S.C. § 1201, *et seq.* (The "ADA"), because, even if the plaintiff was restricted, she was not "severely restricted" within the meaning of the ADA and its implementing regulations, most notably, 29 C.F.R. § 1630.20 (1) (ii) and (3). The Court also held as a matter of law that "a twenty-five pound lifting limitation - particularly when compared to an average person's abilities - does not constitute a significant restriction on one's ability to lift, work, or perform any other major life activity." *Id.*, 101 F.3d at 349; Petition at pages A-30 and A-31.

The holding below is not "a decision in conflict with the decision of another United States court of appeals on the same

important matter" within the meaning of Rule 10(a) of the Rules of the Supreme Court. To the contrary, the case is a routine, *per curiam* opinion that does not, and could not, change the rule in the Fourth Circuit that the determination of disability must be individualized. *E.g., Ennis v. National Association of Business and Educational Radio*, 53 F.3d 55, 59 (4th Cir. 1995) (individualized determination of disability required); *Norfolk and Western Ry. Co. v. Director, OWCP*, 5 F.3d 777, 779 (4th Cir. 1993) (a panel of the court of appeals may not overrule another panel's decision). As acknowledged by the Petition, the Fourth Circuit's rule is in harmony with the rule established by the decisions of the courts of appeals in the other circuits. Petition at page 9.

Further, the factual recitations by the court of appeals pertaining to the plaintiff's minor disability ratings and to the jobs that she could perform even with her restrictions, as well as its holding that the plaintiff was not severely restricted, both make it clear that the court of appeals did, in fact, make an individualized assessment of the plaintiff's condition, notwithstanding its holding on lifting limitations. Hence, the opinion of the court of appeals is not at odds with the rule in the Fourth Circuit or in any other circuit.

For these reasons, the Respondents submit that the

petition for writ of certiorari should be denied.

Respectfully submitted,

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